



Welcome to ACCNJ

ASSOCIATED CONSTRUCTION CONTRACTORS OF NEW
JERSEY

REPRESENTING BUILDING, HEAVY/HIGHWAY, SITE AND
UTILITY SECTORS

Association Services

PROTECTING THE LIVELIHOODS OF MEMBERS
AND THEIR EMPLOYEES

Safety

COVID-19 initiatives

Safety Meetings

Safety Recognition

Safety Partners



Labor Negotiations

- Strong partnerships with unions
- Preserving contractor interests
- Advocating for shared concern





Government Affairs

Advocacy in Trenton

Supporting our National Association in Washington DC



Business Growth

Quarterly networking & business meetings

Diversity Conference

Point Person within ACCNJ Member Companies

Interaction with State Agencies to Learn of Upcoming Projects

What Projects are Prime Contractors Looking At

Access to Associate Member expertise



Understanding the Legal Relationship Between Primes and Subcontractors

Joint Liability

Selection of a Subcontractor

Subcontractor Bids

The Commercially Useful Function Standard

Payments to Subcontractors; and

Rules for Public Projects

Joint Liability

Prime
Responsible for
Actions of Sub

Flow-Down
Responsibilities

Liquidated
Damages

Selection of Sub



PRIME'S DUTY TO SELECT A
QUALIFIED FIRM



OBJECTIONS BY OWNERS /
DEVELOPERS

Subcontractor Bids

Bid mistakes

- N.J.S.A. 40A:11-23.3(b)
- A bidder may request withdrawal of a bid, due to a mistake on the part of the bidder, within five business days after a bid opening.
- The following requirements must be met:
 1. The enforcement of the contract, if actually made, would be unconscionable;
 2. The mistake relates to a material feature of the bid;
 3. The mistake occurred notwithstanding the fact that the bidder exercised reasonable care in preparation of the bid; and
 4. The bidder making the mistake is able to get relief by way of withdrawing the bid without serious prejudice to the contracting unit, except for the loss of the bargain to the contracting unit.

Failure to honor a bid

- Promissory estoppel – a number of conditions must exist
 1. The bid must present a clear and definite offer to perform work at a specified price;
 2. The subcontractor must reasonably expect that the general contractor will rely on its bid;
 3. The general contractor must in fact rely on the subcontractor's bid and such reliance must be reasonable under the circumstances; and
 4. The general contractor must have suffered harm as a consequence of relying on the subcontractor's bid and its subsequent refusal to perform as promised.

Set Aside Programs: The “Commercially Useful Function” Standard

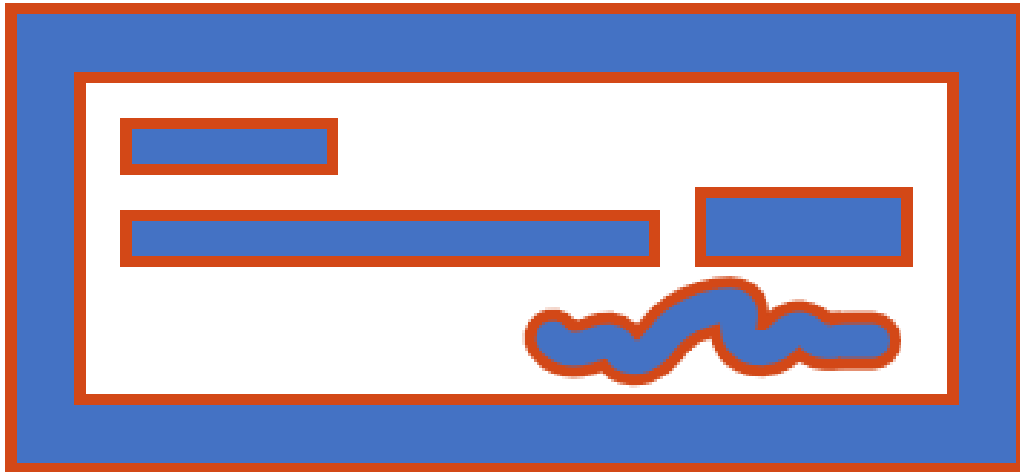
Specific Goals on State and Federal Contracts

- NJ Schools Development Authority, NJ Division of Property Management & Construction, NJ Department of Transportation, NJ Turnpike Authority, NJ Transit, Delaware River Port Authority, NJ Casino Reinvestment Development Authority, NJ Economic Development Authority, NJ Sports and Exposition Authority and County and Local Governments

DBE Fraud / Pass-Through Schemes / Fronting Schemes

DBE/WMBE/DVOB Sub must perform a “commercially useful Function”

Payments to Subcontractors



“Pay If Paid” and “Pay When Paid” Clauses

- Under a **pay-if-paid clause**, a subcontractor is paid only if the prime contractor receives payment from the owner.
- Under a **pay-when-paid clause**, a contractor must pay a subcontractor on receipt of payment from the owner.

Prompt Pay Act – (NJSA 2A:30A-2)

- Sets out the timing of payments to contractors (both prime and sub) on public and private construction projects.

Public Projects

Prevailing Wages
(Scope & Application)

Registration Act
(Scope & Application)

Cultivating the

Construction Industry



Attracting Our Future Workforce

Construction Industry Career Day

Summer Internships

Cooperative Training with Apprenticeship Programs

Active Participation in Helmets-to-Hardhats

A Clear Look in the Future

Economic Research to Predict Opportunities

Quarterly MarketCASTs

December deep-dive

AGC of America Construction Forecasts

Questions?

www.accnj.org

<https://accnj.org/diversity/bid-opportunities-smwdbe-vob/>